

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 30TH MARCH 2007 / 9TH CHAITHRA 1929

WP(C).No. 10575 of 2007(H)

PETITIONER:

**OLAM EXPORTS(INDIA)LTD.,
BISHOP JEROME NAGAR, KOLLAM 691 001,
REPRESENTED BY ITS SENIOR EXECUTIVE(PERSONNEL &
LEGAL), MR.SANALKUMAR.R**

BY ADV. SRI.A.M.SHAFFIQUE

RESPONDENTS:

- 1. ASSISTANT COMMISSIONER(ASSMT),
SPECIAL CIRCLE,
THIRUVANANTHAPURAM.**
- 2. DEPUTY COMMISSIONER OF COMMERCIAL
TAXES(APPEALS), THIRUVANANTHAPURAM.**
- 3. DEPUTY TAHSILDAR(RR),
KOLLAM.**
- 4. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY(TAXES), GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM.**

BY SR.GOV.T.PLEADER SRI. MOHAMMED RAFIQ

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

K.BALAKRISHNAN NAIR,J.

WP(C)NO.10575 OF 2007-H

Judgment

The petitioner has approached this Court, challenging Ext.P7 interim order as also Ext.P6 revenue recovery notice, proposing to recover an amount of Rs.94,15,598/-. Ext.P7 is an interim order passed in the appeal filed by the petitioner against the KGST assessment for the year 2000-01. Though the learned counsel for the petitioner raised several contentions against Ext.P7, finally he pointed out that the grievance of the petitioner will be substantially redressed if the amount already paid by it, which is certified in Ext.P5 is adjusted towards the amount due under Ext.P7.

2. I heard the learned Government Pleader appearing for the respondents also. He pointed out that it is not clear from Ext.P5, what will be the amount available for adjustment. So, he suggested that the assessing authority may be directed to look into this aspect. I think, it is a fair suggestion. Accordingly, the 1st respondent is directed to look into the claim of the petitioner that excess amount is paid by it and the same can be adjusted towards the amount payable under Ext.P7, after affording it an opportunity of being heard. This claim, as stated earlier, is made relying on Ext.P5 certificate. This, the 1st respondent shall do within one month from today. The petitioner shall produce a copy of this Judgment before the 1st respondent within one month from today. If the claim of the petitioner is upheld, the assessing authority shall issue revised demand to it. If only it is not paid, further revenue recovery proceedings shall be continued.

While raising the revised demand, the stay granted by the appellate authority for collection of 50% of tax shall also be reckoned. Needless to say, until such a revised demand is made, further recovery pursuant to Ext.P6 shall be kept in abeyance.

The Writ Petition is disposed of as above.

30.03.2007

K.BALAKRISHNAN NAIR,JUDGE

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